have effect, *Dow v. Harris,* 4 N. H., 17, provided the construction is reasonable. *Robson v. Doyle,* 191 Ill., 566. If a statute is capable of two constructions, one of which is in harmony with the Constitution and the other not, the former should be adopted. *Harmon v. City of Chicago,* 140 Ill., 374. If absurd consequences or those manifestly against common reason arise collaterally out of a statute, it is void *pro tanto,* 1 Harper (S. C.), 101. It is difficult to sustain the holding of the principal case. The generally accepted rules for construing statutes and the authorities cited in the opinion do not fully sustain the decision. In *Rome v. Phillips,* 24 N. Y., 463, cited in the opinion, a will and not a statute was before the court. In *Matter of Sugden v. Partridge,* 174 N. Y., 87, cited as an authority, the court held where a statute is capable of two constructions, the one which is in harmony with the Constitution should be adopted provided it is consistent with the legislative intent. In *Camp v. Rogers,* 44 Conn., 291, the court to give effect to a statute, defined the word "owner" to mean the person who had a special right of property in the thing for a particular purpose as well as the person in whom was vested the legal title. *People ex rel. Gas Co. v. Rice,* 138 N. Y., 151, comes the nearest to sustaining the principal case. The court in construing a statute enlarging the powers of gas and electric light companies, held the word "or" should be read 'and'" because it was clear from the whole act that if the word "or" was retained the statute would be inconsistent and contrary to the manifest intent of the legislature. On principle the dissenting opinion presents the sounder view. "No doubt," says Bartlett, J., "the ordinance could be reconstructed so as to be reasonable. * * * In my judgment we are without power, however easy it may be, to make a good ordinance instead of a bad one."

RAPE—VARIANCE—NAME OF PROSECUTRIX.—STATE V. DRAKEFORD, 78 S. E. (N. C.), 308.—Name of the prosecutrix was alleged in the indictment for rape to be *"Lila"* H., when the evidence showed that it was *"Liza"* H.—*Held,* that this at the most is an immaterial variance.

In all indictments for crime where the commission of a trespass against the person or property of another is a necessary ingredient, the name of the injured party, if known, must be stated. *State v. Pollock,* 105 Mo. App., 273. The reason for the rule is to identify the transaction so that the defendant may not be taken by surprise and may be able to protect himself against a second prosecution for the same offence. *State v. Moxley,* 41 Mon., 402. The misnomer must be of a party whose existence is essential to the offense charged. *U. S. v. Howard,* 1 Baldw., 293. A few cases have gone so far as to hold that a name must be proven "precisely" as laid. *Sullivan v. People,* 6 Colo. App., 458. But the generally adopted rule is that if the names are *idem sonans, i. e.,* if they may be sounded alike without doing violence to the powers of the letters in the variant orthography, then the variance is immaterial. *Ward v. State,* 28 Ala., 53; *Vance v. State,* 75 Ind., 460. The name used in the indictment may also vary from the name proved if it is a corruption, abbreviation or of the

same derivation as the latter and there is evidence that the person was generally known thereby. *Owens v. State,* 20 S. W., 558; *State v. Murberg,* 56 Wash., 384. *Wharton on Criminal Law,* Vol 1, sec. 260, says, "Any variance as to sound of the name of a material third party is fatal at common law." The principal case in holding the variance in the names to be immaterial even though they are not *idem sonans* seems to depart from a well established rule, and from the facts in the case it does not appear that such a holding was necessary to prevent an obstruction of justice.

WILLS—CONSTRUCTION—REPUGNANT CLAUSES.—IN RE MOORE'S ESTATE, 88 ATL. (PA.), 432.—*Held,* that where a clause of the testatrix's will bequeathed the "income from all my property" to be divided equally between M. and F. while they live, and at their death to be equally divided among their children, and a subsequent clause provided, "I will all my personal property to my beloved Aunt M., and at her death to go to her children L. and E.," that the later clause had reference to property about the person of the testatrix, and not the income producing property contemplated by the first clause, and hence there was no repugnancy in the will, and M. did not acquire the entire estate under the later clause.

In construing a will a court should give effect to every word of the will, without change or rejection, provided an effect can be given to it not inconsistent with the general intent of the whole will taken together. *Homer v. Shelton,* 2 Met. (Mass.), 202; *Ingersoll's Appeal,* 86 Pa. St., 240. But this intention is sometimes made doubtful through repugnancy between the several parts of the will. *Russell v. Hartley,* 83 Conn., 654; *Pickering v. Langdon,* 22 Me., 430. When such case arises the inconsistent clauses should be harmonized if possible so as to give effect to each clause. *In re Phillips,* 205 Pa. St., 504; *Matter of Tille Guarantee, etc., Co.,* 195 N. Y., 339; *Jenks v. Jackson,* 127 Ill., 341. But where the clauses are entirely irreconcilable, so that they cannot possibly stand together, the clause which is posterior in local position shall prevail, the subsequent words being considered to denote a subsequent intention. *Jarman on Wills,* p. 436. But see *Day v. Wallace,* 124 Ill., 256, where it was held that where a testator in several parts of his will devised the same property to different persons, the two devisees took the property concurrently as tenants in common. To effectuate a clear intention, as apparent upon the whole will, words may be transformed, supplied, rejected, or changed. But none of these things can be done if there can be any rational construction of the words as they stand. *Gardener on Wills,* p. 376. Personal property is the right or interest, less than freehold, which a man has in realty, or any right or interest which he has in things movable. *Bouv. Dic.* The principal case goes far in trying to give effect to the intention of the testator. It is not probable, as the court says, "that she would give one-half thereof to Mrs. Foote and her children, and then intentionally take it away from them by the next stroke of the pen." But it is an exceedingly liberal, if not a forced construction, to hold that "personal property" in the later clause had reference merely to the property about the person of the testatrix.